

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

June 20, 2012

**Elisabeth A. Shumaker
Clerk of Court**

TIMOTHY W. CLAY,

Petitioner - Appellant,

v.

STATE OF OKLAHOMA,

Respondent - Appellee.

No. 12-6140
(D.C. No. 5:11-CV-01108-C)
(W.D. Okla.)

ORDER

Pursuant to 10th Cir. R. 3.3(B) and 10th Cir. R. 42.1., this appeal is dismissed for failure to prosecute based on the appellant's failure to fully comply with this court's order of June 1, 2012. Appellant had been advised that the appeal would be dismissed for failure to fully comply with the order. Regardless of the circumstances, this court does not have the authority to extend the time period for filing a notice of appeal. Fed. R. App. P. 26(b)(2).

Proceedings in the district court are still ongoing. If the case is ultimately dismissed and a final judgment is entered, and appellant seeks to appeal that dismissal, he may do so. However, he will at that time be required to file in the district court a new and timely notice of appeal after the final judgment is entered. The previously filed notice of appeal will not "carry over."

The mandate shall issue with this order.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in dark ink, appearing to read "Douglas E. Cressler", written over a horizontal line.

by: Douglas E. Cressler
Chief Deputy Clerk